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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

January 6, 2003

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

**RE: Notice of Ex Parte Presentation, GN Docket No. 00-185, CS  
Docket No. 02-52**

Dear Madame Secretary:

On January 3, 2003, representatives of the Alliance of Local Organizations Against Preemption ("ALOAP") met Alexis Johns, Legal Advisor to Commissioner Copps in the above captioned proceeding. Attending the meeting on behalf of ALOAP were: Nicholas Miller & Mitsuko Herrera of Miller & Van Eaton.

**As** summarized in the attached talking points, the parties discussed: the non-Title VI sources of local franchising authority to require franchise fees for use of the public rights-of-way to provide cable modem service; the authority of local franchising authorities under Title VI to require cable modem service providers to comply with local customer service standards; the significant and additional burden placed on the public rights-of-way by the provision of cable modem service; and the implications and limitations of the Commission's tentative decision to classify cable modem service as a Title I information service, and not as a service ancillary to Title II or Title IV services. In addition, the parties discussed: local authority to broadly enforce state consumer protection and anti-fraud provisions; general state property law doctrine as it relates to use of the public rights-of-way; authority of local governments under federal law, state law and home rule doctrines to require compensation and franchises for use of the public rights-

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of-way by non-cable, non-telecommunications service providers; and the applicability of constitutional and state contract law to existing cable franchise agreement contracts.

Sincerely,

MILLER & VAN EATON, P.L.L.C.

By

A handwritten signature in cursive script, appearing to read "Mitsuko R. Herrera".

Mitsuko R. Herrera

cc w/o attachments: Alexis Johns, Legal Advisor to Commissioner Copps

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**DOCUMENT AVAILABLE  
IN THE LEAD  
DOCKET/RULEMAKING**

SEE DOCKET NO. *00-185* FOR THE DOCUMENT.